

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**

**No. 08-0914V**

**Filed: 29 March 2010**

* * * * *	*
KENNETH CHAPPELL,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF HEALTH	*
AND HUMAN SERVICES,	*
	*
Respondent.	*
* * * * *	*

*John Robert Howie , Jr., Esq.*, Howie Law, P.C., Dallas, Texas, for Petitioner;  
*Ann Donohue Martin, Esq.*, U.S. Department of Justice, Washington, District of Columbia, for Respondent.

**UNPUBLISHED DECISION UPON PROFFER AND ACCEPTANCE<sup>1</sup>**

On 23 December 2008, Petitioner brought a petition under the National Childhood Vaccine Injury Act of 1986 (“Vaccine Act” or “Act”).<sup>2</sup> On 17 December 2009, the Court ruled the Petition entitled to compensation. On 4 March 2010, Respondent sent for filing a proffer to compensate Petitioner for all injuries compensable by the Vaccine Program and on 23 March 2010 Petitioner filed an Acceptance of the Proffer, accepting the amounts contemplated in the Proffer.

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<sup>1</sup> Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Vaccine Rule 18(b), a petitioner has 14 days from the date of this ruling within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire decision” may be made available to the public per the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

<sup>2</sup> The statutory provisions governing the Vaccine Act are found in 42 U.S.C. §§300aa-10 *et seq.* (West 1991 & Supp. 1997). Hereinafter, reference will be to the relevant subsection of 42 U.S.C.A. §300aa.

The Proffer contemplates lost earnings in the amount of \$49,776.83, actual and projected pain and suffering damages in the amount of \$198,202.70, and past unreimbursable expenses of \$181,276.50. Respondent's proffer of future life care items is summarized in **Appendix A: Items of Compensation for Kenneth Chappell**, filed with the Proffer and incorporated hereunto. No Medicaid liens pertain to Petitioner's compensation here.

Petitioner accepts the proffered amounts as the total amount attributable to the vaccine-related injury found by the Court to be entitled to compensation.

Wherefore, by the proffer and acceptance of the parties, and for good cause shown, the Court awards the following compensation for the vaccine-related injury(ies) sustained by Kenneth Chappell, Petitioner:

- A. A **lump sum** payment of **\$318,382.62**, representing life care expenses for Year 1 (\$70,403.09), lost earnings (\$49,776.83), and pain and suffering (\$198,202.70), shall be awarded in the form of a check payable to Kenneth Chappell, Petitioner;
- B. A **lump sum** payment of **\$158,759.48**, paid jointly to Petitioner and Parkland Health & Hospital System, as compensation for past un-reimbursable expenses;
- C. A **lump sum** payment of **\$1,259.90**, paid jointly to Petitioner and Covenant Hospital Levelland, as compensation for past un-reimbursable expenses;
- D. A **lump sum** payment of **\$10,966.62**, paid jointly to Petitioner and Covenant Medical Center, as compensation for past un-reimbursable expenses;
- E. A **lump sum** payment of **\$9,120.50**, paid jointly to Petitioner and UT Southwestern, as compensation for past un-reimbursable expenses;
- F. A **lump sum** payment of **\$54.00**, paid jointly to Petitioner and Hamid Ahmadi, M.D., as compensation for past un-reimbursable expenses;
- G. A **lump sum** payment of **\$591.00**, paid jointly to Petitioner and Lubbock Diagnostic Radiology, as compensation for past un-reimbursable expenses;
- H. A **lump sum** payment of **\$525.00**, paid jointly to Petitioner and Collectech Diversified, Inc., as compensation for past un-reimbursable expenses;
- I. An **amount sufficient** to purchase an annuity contract, subject to the conditions described in paragraph II. I of Respondent's Proffer (incorporated herein by reference), paid to the life insurance company from which the annuity will be purchased, for items contained in the life care plan set forth in **Appendix A: Items**

**of Compensation for Kenneth Chappell**, filed along with Respondent's Proffer, and incorporated hereunto.

The Court accepts these terms as just and reasonable. In the absence of a motion for review filed pursuant to Vaccine Rules 23 and 24, the Clerk is directed to enter judgment in accord with this Decision.<sup>3</sup>

The parties are encouraged at this time to discuss attorney fees and costs incurred by Petitioner, so that Petitioner may expeditiously file an application for compensation of attorney fees and costs in a timely fashion, not later than 180 days after the entry of judgment on this Decision. Any further issues or queries should be directed to my law clerk, Isaiah Kalinowski, Esq., at 202-357-6351.

**IT IS SO ORDERED.**

s/ Richard B. Abell

**Richard B. Abell**

Special Master

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<sup>3</sup> Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review of this decision by a Court of Federal Claims judge. Then, under Vaccine Rule 12(a), Petitioner may expedite payment by filing an election to accept the judgment.